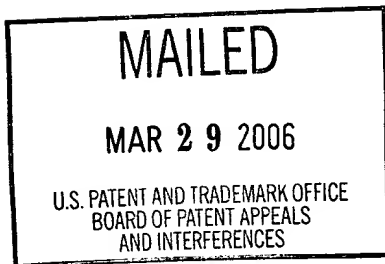


The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GERARD GHAUVEL, FRANCIS AUSSEDAT and PIERRE CALIPPE



Appeal No. 2003-1929
Application No. 09/606,057

ON BRIEF

Before BARRETT¹, GROSS, and DIXON, ***Administrative Patent Judges.***
GROSS, ***Administrative Patent Judge.***

REQUEST FOR REHEARING

In a decision dated January 31, 2005, the decision of the examiner rejecting all of the claims on appeal under 35 U.S.C. § 103 was affirmed. Appellants have filed a Request for Rehearing in response to that decision.

Appellants argue (Request, page 3) that the definition of "cellular telephone" from encyclopedia.com (relied upon by the Board) requires that the transmitter and the receiver are linked

¹ Administrative Patent Judge Barrett has been substituted for Administrative Patent Judge Fleming, who was previously on the panel.

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via microwave radio frequencies, and Paneth uses UHF frequencies rather than microwave. However, Paneth states (column 6, lines 4-7) that "where a particular band (e.g., 454 to 460 MHz) is used in the described embodiment, the invention is equally applicable to at least the entire VHF, UHF and SHF bands." Since SHF is considered part of the microwave spectrum (see last paragraph of page 1 of the attached entry from "searchNetworking.com Definitions" on radio frequency), Paneth does disclose microwave radio frequencies.

Appellants contend (Request, pages 6-7) that since there is no direct connection between elements 17 and 20 in Paneth, those two elements cannot be considered together to satisfy the claimed first, main processor. We disagree. We note that the examiner relied upon elements of Figure 2 or of Figure 3 to meet the claimed processor. In Figure 3, the elements corresponding to Figure 2's codec unit 17 and remote connection processor 20 are VCU 28 and STU 27, respectively. Elements 28 and 27 are shown as directly connected, and element 27 is coupled to CCU 29 (the equivalent of CCU 18 from Figure 2, satisfying the claimed second processor) and also coupled to element 33 through 29 (thereby satisfying the claimed third processor). Thus, looking at Figure

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3, the codec unit and subscriber terminal unit can be considered together as one processor.

Appellants (Request, page 10) argue that Paneth's processor 33 is not positioned between modem 19 and CCU 18 and coupled to elements 17 and 20 through element 18. Appellants continue that element 33 in Figure 3 "does not couple any of elements 28, 29 and 30a together." Claim 6 requires that the third processor be coupled to the first processor and perform signal processing on vectors. Appellants do not dispute that element 33 performs the recited processing. Thus, the question is whether element 33 is coupled to the first processor. Figure 3 shows VCU 28 connected to CCU 29, which in turn is connected to element 33. Thus, element 33 is coupled to VCU 28 through CCU 29. As claim 6 does not require a **direct** connection between the two processors, Paneth satisfies the coupling limitations of claim 6.

Appellants assert (Request, pages 7-9 and 11-13) that the Decision should have been designated as a new ground of rejection because the determinations made in the Decision differ from those made by the examiner. Specifically, appellants contend that using Paneth's elements 17 and 20 together differs from the examiner's indication of element 20 alone. However, the examiner (Answer, pages 3-4) relied upon several elements including 17 and

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20 from Figure 2 and elements 28 and 27 from Figure 3. Although the examiner used alternative language in referring to the elements, we employed the same elements but clarified it is the combination thereof that satisfies the claim limitation. Further, appellants assert that the indication that processor 33 is coupled to elements 17 and 20 through element 18 differs from the examiner's determination. However, the examiner also designated element 33 as the third processor. We merely clarified how element 33 satisfied the coupling portion of the claim. Thus, the Decision did not introduce a new ground of rejection.

Appellants argue (Request, pages 13-14) that the determination in the Decision that Claesson discloses cellular radios is erroneous and not consistent with the examiner's determination. Upon further consideration, we withdraw the statement that Claesson discloses cellular radios. However, as indicated on page 10 of the Decision, the reason for modifying Paneth to incorporate Claesson's DSP still holds. Specifically, Claesson suggests that DSP is used for high performance and keeps total cost reasonable. Since the benefits of the DSP would have been likewise desirable in a cellular radio, it would have been

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obvious to the skilled artisan to use a DSP for the first processor in Paneth.

Last, appellants argue (Request, pages 3-4) that the definition of "cellular telephone" from encyclopedia.com requires plural base stations being divided into "cells," each with a central base station, and that Paneth fails to disclose these portions of the definition. We agree. There is no evidence in Paneth of plural base stations or cells. Consequently, we would have to resort to speculation to say that Paneth discloses a cellular radio. Since we also fail to find anything in Barnes suggesting the examiner's stated motivation (Answer, pages 3-4) for combining Barnes with Paneth to satisfy the limitation of a cellular radio, we cannot sustain the obviousness rejection of claims 6, 8, 10, 13, 14, 16, 17, and 19 over Paneth and Barnes. Further, since Claesson and Mano do not cure the deficiencies in the primary combination, we cannot sustain the obviousness rejections of claims 12, 15 through 18, 20 and 21.

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Appellants' request for rehearing has been granted. In other words, the rejection of claims 6, 8, 10, and 12 through 21 under 35 U.S.C. § 103 is reversed.

**REHEARING
GRANTED**


LEE E. BARRETT
Administrative Patent Judge

Anita Pellman Gross
ANITA PELLMAN GROSS
Administrative Patent Judge

BOARD OF PATENT
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AND
INTERFERENCES


JOSEPH L. DIXON
Administrative Patent Judge

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